

FILED
JAMES BONINI
CLERK

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

03 DEC 10 AM 11:14

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WEST DIVISION CINCINNATI

Walter W. Thiemann,
on behalf of himself and of
all others similarly situated,

Plaintiffs,

vs.

OHSL FINANCIAL CORP., et al.

Defendants.

Case No. C-1-00-793

Judge Sandra S. Beckwith

Magistrate Judge Hogan

**MOTION TO TAKE THE DEPOSITIONS OF GARY KREIDER AND
DAVID ROSENBERG**

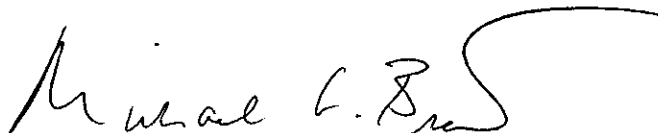
Pursuant to Magistrate Judge Hogan's direction at the 9 November 2003 Status Conference, the plaintiff class respectfully moves to take the depositions of KMK attorneys Gary Kreider and David Rosenberg. It is undisputed that both Messrs. Kreider and Rosenberg provided legal services with respect to the OHSL-PFGI merger, though the parties dispute the degree of importance of the services rendered. It is undisputed that the depositions of both Messrs. Kreider and Rosenberg were either scheduled or in the process of being scheduled when the Court issued its 20 October 2003 Order. (*See*, Sept, 18, 2000 letter from Pat Fischer to Michael G. Brautigam, Attached as Exhibit A.) Counsel for Messrs. Kreider and Rosenberg have interpreted the Order as staying discovery with respect to KMK, or at least to Messrs. Kreider and Rosenberg, using it as a sword, not a shield, to evade their discovery obligations. The plaintiff class wishes to question both Messrs. Kredier and Rosenberg about their involvement in the

preparation and dissemination of the Proxy Materials/Registration Statement that is at issue in this litigation, as the plaintiffs have done previously with four KMK transactional attorneys who also co-wrote the document.

The plaintiff class wishes to make clear that it does not seek an exception to Magistrate Judge Hogan's recent Scheduling Order, but rather compliance with it. Accordingly, the plaintiff class should be entitled to take the depositions of relevant fact witnesses who rendered legal services on the Proxy Materials/Registration Statement at issue.

Respectfully submitted,

By:

A handwritten signature in black ink, appearing to read "Michael G. Brautigam", written over a horizontal line.

Michael G. Brautigam
Gene Mesh M-94
GENE MESH & ASSOCIATES
2605 Burnet Avenue
Cincinnati, Ohio 45219-2502
Phone: (513) 221-8800
Fax: (513) 221-1097

Attorneys for the Plaintiff Class



ATTORNEYS AT LAW

KEATING, MUETHING & KLEKAMP, P.L.L.

1400 PROVIDENT TOWER • ONE EAST FOURTH STREET • CINCINNATI, OHIO 45202-3752
TEL. (513) 579-6400 • FAX (513) 579-6457 • www.kmklaw.com

PATRICK F. FISCHER
DIRECT DIAL: (513) 579-6459
FACSIMILE: (513) 579-6457
E-MAIL: PFISCHER@KMKLAW.COM

September 18, 2003

Via Facsimile

Michael G. Brautigam
Gene Mesh & Associates
2605 Burnet Avenue
Cincinnati, OH 45219-2502

Dear Mr. Brautigam:

From a review of the depositions, you should be aware that Mr. Rosenberg and Mr. Kreider know almost nothing about this matter. The need to take their depositions is not necessary and thus your harassment continues.

That said, we will offer them for their deposition at a date and location convenient to them. Thus, subject to the "reasonable accomodation," we will make both Mr. Rosenberg and Mr. Kreider available at our offices on a date to be determined. Obviously, this same "reasonable accommodation" [per your letter], also should have been granted to the other witnesses, too.

Very truly yours,

KEATING, MUETHING & KLEKAMP, P.L.L.

By: 
Patrick F. Fischer

cc: John Hust, Esq.

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of December, 2003, a true and correct copy of the foregoing Motion to Take Deposition was served as follows:

BY HAND DELIVERY

James E. Burke, Esq.
Keating, Muething & Klekamp PLL
1400 Provident Tower
One East Fourth Street
Cincinnati, Ohio 45202

Michael R. Barrett, Esq.
BARRETT & WEBER
500 Fourth & Walnut Centre
105 East Fourth Street
Cincinnati, OH 45202-4015

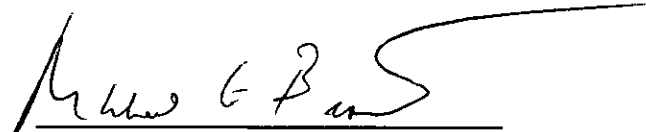
651 3836
John B. Pinney, Esq.
GRAYDON HEAD & RITCHEY
P.O. Box 6464
Cincinnati, OH 45201-6464

J. Michael Debbler, Esq.
GRAYDON HEAD & RITCHEY
P.O. Box 6464
Cincinnati, OH 45201-6464

BY FAX

583 4203
John Hust, Esq.
SCHROEDER, MAUNDRELL,
BARBIERE & POWERS
Suite 110, Governor's Knoll
11935 Mason Road
Cincinnati, OH 45249-3703

202 626 1700
James E. Gauch, Esq.
JONES DAY
51 Louisiana Avenue, N.W.
Washington, D.C. 20001-2113


Michael G. Brautigam